IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1390 OF 2007
IN
SUIT NO.1097 OF 2007

Haji Makbool Mohemmed Hanif Kokar Quereshi & Anr. ...Plaintiffs

V/s.

Aslam s/o Abdul Rehman Chunawala & Ors. ...Defendants

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Mr.F.E.Devitre, Sr.Counsel with Mr.Naushad Engineer & Mr.Swapnil Bangur i/b Mr.Ashok Purohit for the Plaintiffs.

Mr.A.M.Saraogi with Mr.S.K.Chaurasia for Defendants.

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CORAM: A.M.KHANWILKAR, J.

JUNE 13, 2007.

P.C.

1. After hearing the Motion for some time, Counsel for the Defendants, on instructions, states that the Defendants will construct 4th building, which will be D-Wing in the Complex. In the said building, the Defendants will set apart 7000 sq.ft. of saleable area for the Plaintiffs in lieu of the

disputed property, provided, the Plaintiffs deposit the entire balance consideration amount in this Court being sum of Rs.66,40,000/- (Rupees Sixty-six Lakhs Forty Thousand) within four weeks from today.

2. Defendants further assure and undertake through Counsel that till the construction of D-Wing is completed, the Defendants will reserve 7000 sq.ft. of saleable area in buildings described as Block A and Block B respectively on the floors referred to in the Memorandum of Understanding. They will not create any third party rights in the said 7000 sq.ft. of saleable area without prior permission of this Court.

3. The above statements made by the Defendants through Counsel are accepted. Counsel for the Defendants states that he has been specifically instructed by the Defendants to make above statements and the said position is also recorded in the affidavit filed on behalf of the Defendants.

4. This arrangement, however, is without

prejudice to the rights and contentions of the parties in the main Suit.

5. Counsel for the Defendants submits that in the light of the above arrangement, the Defendants be given liberty to deal with the area reserved for Plaintiffs in the industrial unit. Subject to above, the Defendants may deal with the said industrial unit Nos.407 and 408 after four weeks.

6. It is made clear that it will be open to the Plaintiffs to apply for appropriate relief as may be advised after the D-Wing Building is fully constructed and ready for occupation.

7. The amount to be deposited by the Plaintiffs be invested in any Nationalised Bank initially for a period of three years and one month.

8. It is also clarified that the Defendants will be free to apply for withdrawal of the amount, which application will be considered on its own merits at the appropriate stage.

9. The Notice of Motion is disposed of on the above terms.

A.M.KHANWILKAR, J.